

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA**

DARRELL McNARY,)	
)	
)	
vs.)	2:11-cv-131-JMS-DKL
)	
JERRY HUSTON, et al.,)	
)	
Defendants.)	

ENTRY

I.

Plaintiff McNary's motion for reconsideration is treated as a motion pursuant to Rule 59(e) of the *Federal Rules of Civil Procedure*. See *Borrero v. City of Chicago*, 456 F.3d 698, 701-02 (7th Cir. 2006) (explaining that whether a motion filed within the time frame contemplated by Rule 59(e) should be analyzed under Rule 59(e) or Rule 60(b) of the *Federal Rules of Civil Procedure* depends on the *substance* of the motion, not on the timing or label affixed to it); *Osterneck v. Ernst & Whinney*, 489 U.S. 169, 174 (1989) (noting that Rule 59(e) encompasses reconsideration of matters decided on the merits). McNary argues that his complaint was dismissed pursuant to 28 U.S.C. ' 1915A(b) because the court misunderstood him to seek the restoration of good time credits. In his motion for reconsideration, McNary explains that he does not seek the restoration of good time credits and that the good time credits related to the disciplinary actions of which he complains were restored prior to filing this action.

McNary's motion for reconsideration [6] is **granted**.

The Entry and Judgment issued on May 24, 2011, are **vacated**.

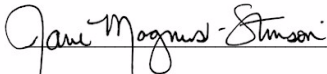
The clerk shall **reopen the action** on the docket.

II.

The complaint remains subject to the screening required by 28 U.S.C. § 1915A(b) and an appropriate order will be issued when that step has been taken.

IT IS SO ORDERED.

Date: 01/13/2012


Hon. Jane Magnus-Stinson, Judge
United States District Court
Southern District of Indiana

Note to Clerk: Processing this document requires actions in addition to docketing and distribution.

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